

**Notice of Agency Rule-making Proposal**

AGENCY: 13-188-Department of Marine Resources

CHAPTER NUMBER AND TITLE: Chapter 75 Protected Resources Gear Marking Exception

TYPE OF RULE (*check one*):         Routine Technical         Major Substantive

PROPOSED RULE NUMBER (*leave blank; to be assigned by Secretary of State*):

BRIEF SUMMARY: This proposed rule-making creates an exception to current requirements to mark the buoy lines for trap/pot gear with either three or four purple marks, depending on where the gear is fished. Buoy lines of 100 feet or less in length would be required to have only two purple marks, one of 36 inches in the top two fathom of the line, and one of 12 inches at the bottom of the line.

Date, time and location of PUBLIC HEARING (*if any*): No public hearing scheduled

COMMENT DEADLINE: March 20, 2020

CONTACT PERSON FOR THIS FILING (*include name, mailing address, telephone, fax, TTY, e-mail*):

NAME: Amanda Ellis

MAILING ADDRESS: 21 State House Station, Augusta, Maine 04333-0021

E-MAIL: dmr.rulemaking@maine.gov

TELEPHONE: 207-624-6573

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TTY: 207-624-6500 (Deaf/Hard of Hearing)

Hearing facilities: If you require accommodations due to disability, please contact Meredith Mendelson at 207-624-6553.

CONTACT PERSON FOR SMALL BUSINESS IMPACT STATEMENT (*if different*): Same

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES (*if any*): None

STATUTORY AUTHORITY FOR THIS RULE: 12 MRS 6171

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED (*if different*): Same

AGENCY WEBSITE: <http://www.maine.gov/dmr/rulemaking/>

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON: dmr.rulemaking@maine.gov

\* Check one of the following two boxes.

X The summary provided above is for publication in both the newspaper and website notices.

The summary provided above is for the newspaper notice only. Title 5 §8053, sub-§5 & sub-§7, ¶D. A more detailed summary is attached for inclusion in the rule-making notice posted on the Secretary of State's website. Title 5 §8053, sub-§3, ¶D & sub-§6.

**Please approve bottom portion of this form and assign appropriate AdvantageME number.**

APPROVED FOR PAYMENT \_\_\_\_\_ DATE: \_\_\_\_\_  
 (authorized signature)

FUND	AGENCY	ORG	APP	OBJ	PROGRAM	FUNDING Profile JVC	FUND Pri JVC	FUND Line JVC
010	13A	1120	10	4946				

## DEPARTMENT OF MARINE RESOURCES

### Chapter 75 – Protected Resources

#### 2. Waters to the Exemption Line

1. All persons who fish lobster gear in Maine's coastal waters from the head of tide to the Exemption Line shall comply with one of the following ALWTRP options:

(a) Option 1: All buoys must be attached to the buoy line with a weak link having a breaking strength no greater than 600 pounds (272.4 kg). Weak links may include swivels, plastic weak links, rope of the appropriate breaking strength, hog rings, rope stapled to a buoy stick, or devices approved in writing by the NOAA Fisheries Assistant Administrator (See contact information in 75.01 (A)(3)). In addition, the weak link must be designed so that the bitter end of the buoy line is clean and free of knots when the weak link breaks; or

(b) Option 2: All buoy lines must be made entirely of sinking line; or

(c) Option 3: All ground lines must be made entirely of sinking line.

2. Effective September 1, 2020 buoy lines must be marked with three (3) purple marks: one at the top of the buoy line, one midway along the buoy line, and one at the bottom of the buoy line. The mark at the top of the buoy line must be 36 inches and must be in the top two fathom of buoy line. The middle and bottom marks must be 12 inches. Each color code must be permanently affixed on or along the line and the color code must be clearly visible when the gear is hauled or removed from the water.

Exception: Vertical lines less than 100 ft in length may be marked with only two (2) purple marks: one at the top of the buoy line and one at the bottom of the buoy line. The mark at the top of the buoy line must be 36 inches and must be in the top two fathom of the buoy line. The bottom mark must be 12 inches. Each color code must be permanently affixed on or along the line and the color code must be clearly visible when the gear is hauled or removed from the water.

3. It is unlawful to fish lobster gear within Maine's coastal waters inside the Exemption Line which has a buoy line marked with a green mark.

#### 3. Sliver Area

All persons who fish lobster gear and trap/pot fisheries (including but not limited to all crab species, hagfish, finfish, whelk, and shrimp) in the Maine Sliver Area, shall comply with each the following ALWTRP requirements:

(a) All buoys, floatation and/or weighted devices must be attached to the buoy line with a weak link having a breaking strength no greater than 600 pounds (272.4 kg). Weak links may include swivels, plastic weak links, rope of the appropriate breaking strength, hog rings, rope stapled to a buoy stick, or devices approved in writing by the NOAA Fisheries Assistant Administrator (See contact information in Chapter 75.01(A)(3)). In addition, the weak link must be designed so that the bitter end of the buoy line is clean and free of knots when the weak link breaks plus each weak link must be installed as close to the buoys, floatation and/or weighted device as possible.

(b) Effective September 1, 2020 buoy lines must be marked with four (4) purple marks. There must be three 12-inch marks, one at the top of the buoy line, one midway along the buoy line, and one at the bottom of the buoy line. In addition, each buoy line must be marked with a 36-inch purple mark in the top two fathom of buoy line. Each color code must be permanently

affixed on or along the line and the color code must be clearly visible when the gear is hauled or removed from the water.

Exception: Vertical lines less than 100 ft in length may be marked with only two (2) purple marks: one at the top of the buoy line and one at the bottom of the buoy line. The mark at the top of the buoy line must be 36 inches and must be in the top two fathom of the buoy line. The bottom mark must be 12 inches. Each color code must be permanently affixed on or along the line and the color code must be clearly visible when the gear is hauled or removed from the water.

- (c) Unless marked as required by (b) in advance of September 1, 2020, buoy lines must be marked with three (3) red 12-inch (30.48 cm), colored marks: one at the top of the buoy line, one midway along the buoy line, and one at the bottom of the buoy line. Each color code must be permanently affixed on or along the line and the color code must be clearly visible when the gear is hauled or removed from the water.

Chapter 75.3(c) sunsets August 31, 2020.

- (d) Effective September 1, 2020, buoy lines must be marked with an additional green mark of at least 6 inches in the top two fathom of buoy line.
- (e) The attachment of buoys, toggles or other floatation devices is prohibited on ground lines.
- (f) Ground lines. All ground lines must be composed entirely of sinking line.
- (g) Sink rope means, for both ground lines and buoy lines, line that has a specific gravity greater than or equal to 1.030, and, for ground lines only, does not float at any point in the water column.
- (h) Multiple traps only – no single traps allowed. See section 5 below for minimum number of traps per trawl. Trawls with less than or equal to 5 traps may only possess 1 buoy line.
- (i) Fishermen are encouraged, but not required, to maintain knot-free buoy lines.

#### 4. Federal waters

All persons who fish lobster gear and trap/pot fisheries (including but not limited to all crab species, hagfish, finfish, whelk, and shrimp) in Maine's coastal waters southerly of the Three Mile Limit, or as shown on NOAA, National Ocean Survey nautical charts, and within Area 1, must comply with each of the following ALWTRP requirements:

- (a) All buoys, floatation and/or weighted devices must be attached to the buoy line with a weak link having a breaking strength no greater than 600 pounds (272.4 kg). Weak links may include swivels, plastic weak links, rope of the appropriate breaking strength, hog rings, rope stapled to a buoy stick, or devices approved in writing by the NOAA Fisheries Assistant Administrator (See contact information in Chapter 75.01(A)(3)). In addition, the weak link must be designed so that the bitter end of the buoy line is clean and free of knots when the weak link breaks plus each weak link must be installed as close to the buoys, floatation and/or weighted device as possible.
- (b) Effective September 1, 2020 buoy lines must be marked with four (4) purple marks. There must be three 12-inch marks, one at the top of the buoy line, one midway along the buoy line, and one at the bottom of the buoy line. In addition, each buoy line must be marked with a 36-inch purple mark in the top two fathom of buoy line. Each color code must be permanently

affixed on or along the line and the color code must be clearly visible when the gear is hauled or removed from the water.

Exception: Vertical lines less than 100 ft in length may be marked with only two (2) purple marks: one at the top of the buoy line and one at the bottom of the buoy line. The mark at the top of the buoy line must be 36 inches and must be in the top two fathom of the buoy line. The bottom mark must be 12 inches. Each color code must be permanently affixed on or along the line and the color code must be clearly visible when the gear is hauled or removed from the water.

- (c) Unless marked as required by (b) in advance of September 1, 2020, buoy lines must be marked with three (3) red 12-inch (30.48 cm), colored marks: one at the top of the buoy line, one midway along the buoy line, and one at the bottom of the buoy line. Each color code must be permanently affixed on or along the line and the color code must be clearly visible when the gear is hauled or removed from the water.

Chapter 75.4 (c) sunsets August 31, 2020.

- (d) Effective September 1, 2020, buoy lines must be marked with an additional green mark of at least 6 inches in the top two fathom of buoy line.
- (e) Multiple traps only – no single traps allowed; See section 5 below for minimum number of traps per trawl; trawls of 5 or fewer traps must have only one buoy line.
- (f) The attachment of buoys, toggles or other floatation devices is prohibited on ground lines.
- (g) Ground lines. All ground lines must be composed entirely of sinking line.
- (h) Sink rope means, for both ground lines and buoy lines, line that has a specific gravity greater than or equal to 1.030, and, for ground lines only, does not float at any point in the water column.
- (i) Fishermen are encouraged, but not required, to maintain knot-free buoy lines.

# Rule-Making Fact Sheet

(5 M.R.S., §8057-A)

AGENCY: Department of Marine Resources

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:

Amanda Ellis, Department of Marine Resources, 21 State House Station, Augusta, Maine 04333-0021 Telephone: (207) 624-6573; web address: <http://www.maine.gov/dmr/rulemaking/>

CHAPTER NUMBER AND RULE: Chapter 75 Protected Resources

STATUTORY AUTHORITY: 12 MRS 6171

DATE AND PLACE OF PUBLIC HEARING(S): No public hearing scheduled

COMMENT DEADLINE: March 20, 2020

PRINCIPAL REASON(S) OR PURPOSE FOR PROPOSING THIS RULE: [see §8057-A(1)(A)&(C)] The Department has received input from lobster fishermen that the current gear marking requirements are too onerous for gear being fished in shallow coastal waters or up in rivers. The Department has determined that two marks is sufficient for vertical lines 100 feet or less in length.

IS MATERIAL INCORPORATED BY REFERENCE IN THE RULE? \_\_\_ YES \_\_\_ X NO [§8056(1)(B)]

ANALYSIS AND EXPECTED OPERATION OF THE RULE: [see §8057-A(1)(B)&(D)] The rule will provide an exception from current gear marking requirements to allow fewer marks than currently required.

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (including up to 3 primary sources relied upon) [see §§8057-A(1)(E) & 8063-B]: Input from lobster fishermen received at the Zone Council meetings in January and February.

ESTIMATED FISCAL IMPACT OF THE RULE: [see §8057-A(1)(C)]

Enforcement of these proposed amendments will not require additional activity in this agency. Existing enforcement personnel will monitor compliance during their routine patrols.

**FOR EXISTING RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:**

*ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:*

[see §8057-A(2)(A)]

*INDIVIDUALS, MAJOR INTEREST GROUPS AND TYPES OF BUSINESSES AFFECTED AND HOW THEY WILL BE AFFECTED:* [see §8057-A(2)(B)]

*BENEFITS OF THE RULE:* [see §8057-A(2)(C)]

*Note: If necessary, additional pages may be used.*